IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2158 OF 2004

Mr.Iqbal Ahemed Ajimulla Shaikh ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr.C.K.Talekar for Petitioner.

Mr.R.Y.Mirza, A.P.P. for Respondents 1 & 2.

None for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

MARCH 10, 2005.

P.C.

1. Heard Counsel for the Petitioner.

2. I see no reason to interfere with the concurrent conclusion reached by the two Courts below. The Application before the lower Court was for limited purpose of return of the key which was recovered from the Applicant therein. As it cannot be disputed that one key was obtained by the Police

from the Applicant/Respondent No.3 herein under panchnama dated 25th August 2003, no fault can be found with the direction of the Court to return the said key to the Applicant/Respondent No.3 herein.

3. To get over this position, Counsel for the Petitioner submits that the Court has gone further and has made observations regarding the ownership of the shed which observations are adverse to the interest of the Petitioner, and in particular, in the civil action pending between the parties. He further submits that due to restoration of the keys to the Applicant/Respondent No.3 herein, the Respondent No.3 has started occupying the premises, to the detriment of the Petitioner inspite of the pendency of the issue before the Civil Court. These contentions are not relevant for considering the present Petition.

4. As mentioned earlier, I see no infirmity in the conclusion or the final order passed by the two Courts below allowing the Application of the Respondent No.3 for return of the key, which was recovered from her by the Police.

5. Any other observation made by the lower Court or by the Revisional Court will not be relevant or shall not influence the outcome of the civil action pending between the parties. Besides, on account of return of the key, if the Respondent No.3 herein/Applicant before the lower Court is trying to interfere with the possession of the Petitioner herein, that is a matter which will have to be resolved before the Civil Court, if such Application is taken out by the Petitioner before that Court. In other words, all questions in that behalf are left open, to be decided by the Civil Court.

6. Petition disposed of on the above terms.

A.M.KHANWILKAR, J.